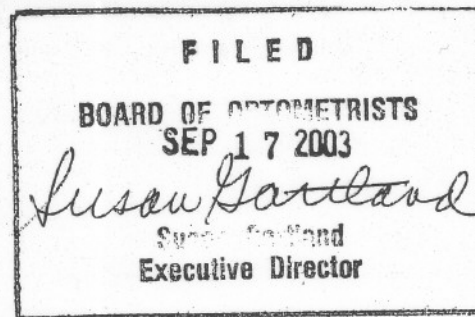


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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF OPTOMETRISTS

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IN THE MATTER OF THE SUSPENSION  
OR REVOCATION OF THE LICENSE OF

YURIJ TRYTJAK, O.D.  
License No. 270A00357400

TO PRACTICE OPTOMETRY  
IN THE STATE OF NEW JERSEY

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Administrative Action

FINAL DECISION AND ORDER  
AFTER UPL EXPLANATION

This matter was opened to the New Jersey Board of Optometrists (hereinafter the "Board") on the review of an advertisement that ran in the Observer for the Grand Opening of the Optical Palace located at 230 Harrison Avenue, Harrison, NJ which advertised "routine eye glass exam \$1, eye exam by an Independent Doctor of Optometry with required \$200 minimum purchase of frame and lenses..." The Board's records indicated that Dr. Yurij Trytjak, O.D. (hereinafter "Respondent") was the Independent Doctor of Optometry practicing at this location. The investigation revealed probable violations of the general advertising practices pursuant to N.J.A.C. 13:38-1.2(c) and N.J.A.C. 13:38-1.4(d).

On June 20, 2003, a Uniform Penalty Letter (hereinafter "U.P.L.") was sent to Respondent setting forth the initial findings of the Board and offering Respondent the opportunity to settle this matter by acknowledging the violations and paying an aggregate civil penalty in the amount of \$500.00 reflecting the following:

1. A civil penalty of \$250.00 for offering a reduced fee for an eye examination and making it contingent upon a resultant purchase of ophthalmic materials in violation of N.J.A.C. 13:38-1.2(c)7.

2. A civil penalty of \$250.00 for the failure to list the name and license number of the responsible optometrist in the advertisement in violation of N.J.A.C. 13:38-1.4(d).

In addition the letter directed Respondent to take the following corrective action:

1. Cease and desist from advertising an eye examination services at a reduced fee without listing the name and license number of a responsible licensee.

2. Cease and desist from making an offer of a reduced fee for an eye examination contingent upon the purchase of ophthalmic materials or services.

Alternatively, Respondent was given the options of either requesting a hearing before the Board or submitting a written explanation and waiving its right to a hearing.

Waiving his right to a hearing, Respondent elected to submit a written explanation in which Respondent maintained that the advertisement in question was placed by the owner of the Optical Palace. Respondent acknowledged that he maintains an independent practice of optometry at 230 Harrison Avenue, Harrison, NJ and that there was "no indication in this advertisement that I had anything at all to do with the advertisement" Respondent further admitted that his name, telephone number, nor any other indication appears in this advertisement and that he had nothing to do with the advertisement. Attached to his statement was correspondence from one of the owners of the Optical Palace alleging that Dr. Tryjak had nothing to do with this advertisement.

At its meeting on July 16, 2003, the Board considered Respondent's explanation and the complaint. With respect to charges, the Board finds that because the advertisement includes the reduction of fees for an eye examination by an independent doctor of optometry and since the respondent was the optometrist providing the services at the location he cannot absolve himself from adherence to the Board's advertising regulations by arguing that he did not authorize the advertising. It is the Board's position that the optometrist shall be responsible for all advertising of eye examinations and the fees set for said examinations at the optometrist practice location. Accordingly, the Board finds that Respondent failed to conform with statutory and regulatory obligations as set forth in the UPL and thus it concludes that the violations occurred.

Based on the foregoing:

IT IS on this 17<sup>th</sup> day of September, 2003

ORDERED that:

1. Respondent shall pay to the Board of Optometrists a civil penalty in the total amount of \$500.00 for the violations as set forth in the U.P.L. and found as detailed above. Said payment shall be made by certified check or money order payable to the State Board of Optometrists and shall be delivered within ten (10) days of service of this order to Susan Gartland, Executive Director at the Board of Optometrists, P. O. Box 45012, Newark, New Jersey 07101. Failure to remit the payment required by this Order will result in the filing of a certificate of debt.

2. Respondent shall cease and desist from engaging in any of the conduct found herein to be unlawful.

NEW JERSEY STATE  
BOARD OF OPTOMETRISTS

BY:   
Leonard Steiner, O.D.